

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION**

BABY DOE, *et al.*,

Plaintiffs,

V.

JOSHUA MAST, *et al.*,

Defendants,

and

UNITED STATES SECRETARY OF
STATE ANTONY BLINKEN, *et al.*,

Nominal Defendants.

Case No. 3:22-cv-49-NKM

**DEFENDANTS JOSHUA AND STEPHANIE MAST’S MOTION TO FILE THEIR
UNREDACTED REPLY IN SUPPORT OF THEIR MOTION TO
DISMISS THE AMENDED COMPLAINT UNDER SEAL**

Defendants Joshua and Stephanie Mast, by and through their undersigned counsel, hereby move the Court to file the unredacted version of their Reply in Support of Their Motion to Dismiss the Amended Complaint under Rules 12(b)(1) and 12(b)(6) under seal pursuant to Local Rule 9 and the Protective Order (Dkt. 26).

1. The Masts' Reply contains discussion of and reference to materials that have been filed in the adoption proceeding in which the Does seek to unwind the Masts' adoption of Baby Doe. That proceeding is presently under seal. *See* Va. Code Ann. § 63.2-1246. The Virginia state court has allowed the Masts to discuss that case's filings in this case, provided that the Masts seek to submit the information and records under seal. *See* Exhibit 1 to the Memorandum in Support of the Motion to Dismiss (filed under seal).

2. The Supreme Court of Virginia recently denied the Does' effort to shield their identities asymmetrically in the Circuit Court proceedings while consistently attacking the Masts publicly in this proceeding and in the press. The Supreme Court also called into question whether the Circuit Court records should remain sealed because of the Supreme Court's recent decision in *Daily Press, LLC v. Commonwealth*, ___ Va. ___, ___, 878 S.E.2d 390, 403–07 (2022). But it held that the Circuit Court record would remain *provisionally sealed* until the Circuit Court has provided notice of the proceedings to the public, offered an opportunity for intervenors to seek access to the record, and entered an order based on specific findings as to whether some or all of the record should remain sealed.

3. The Masts also anticipate moving this Court for an order modifying its protective order, including its authorization for Plaintiffs John Doe and Jane Doe to proceed under pseudonyms, in light of the Supreme Court of Virginia's order. The undersigned counsel will first meet and confer with Plaintiffs' counsel to assess the scope of any disagreement about the protective order.

4. While the Circuit Court implements the Supreme Court's order, and pending further action from this Court on the protective order, the Masts seek leave to file this reply under seal so as not to moot any of those issues unilaterally. The Masts acknowledge that it may soon be appropriate to revisit the matter in light of subsequent developments.

For the above reasons, the Masts respectfully request the Court to grant this Motion to File Their Unredacted Reply in Support of Their Motion to Dismiss the Amended Complaint Under Seal.

Dated: December 5, 2022

Respectfully submitted,

/s/ John S. Moran

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